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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

Veronique GUILLOU et al. :

EXAMINER: YU, G.

SERIAL NO: 09/901,907 :

FILED: JULY 11, 2001 :

GROUP ART UNIT: 1619

FOR: A TOPICAL CLEANSING COMPOSITION

DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I, L. Schmitt - Arnaud, hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience in the field of preparing and analyzing cosmetic and/or dermatological compositions.
2. I am familiar with the specification of the above-identified patent application.
3. The following observations and experiments were carried out by me or under my direct supervision and control.
4. Two compositions were prepared to demonstrate the criticality of cationic polymers devoid of saccharide groups, which confirm that the data submitted on April 25, 2002 demonstrates, in my opinion, the surprising and unexpected finding that cationic polymers devoid of saccharide groups when combined with a surfactant system of phosphate surfactant and foaming surfactant yields cleansing compositions which have good rinsability and which have a voluminous foam having small bubbles which is soft and dense.
5. The following two compositions were prepared, Example of the Invention, which contains 1% (m.a.) polyquaternium-47 (a cationic polymer devoid of saccharide units) and a

Comparative Example, which does not contain the cationic polymer. Each composition also contained a surfactant system composed of a phosphate surfactant (lauryl phosphate) and a foaming nonionic surfactant (decyl glucoside):

Composition	Comparative Example	Example of the Invention
Water	qsp 100%	qsp 100%
Lauryl phosphate (1)	6.5 %	6.5 %
Decyl glucoside (2)	16.25% (M.A. =6.5%)	16.25% (M.A. =6.5%)
Polyquaterium-47 (3)	0	5% (M.A. 1%)
Potassium hydroxide	3.5 %	3.5 %
Water	5%	5%
Preservatives	0.2%	0.2%

(1) Monolauryl phosphate (comprising 75% monoester): MAP 20® from Kao Chemicals

(2) (C9/11)Alkylpolyglucoside (1.4), as a 40% solution: Mydol10® from Kao Chemicals

(3) Acrylic acid/Methacrylamidotrimethylammonium chloride/methyl acrylate terpolymer at 20% in water: Merquat 2001® from Ondeo

6. Each of the compositions had the appearance of a transparent gel. The two compositions were evaluated according to a series of sensory criteria as described in the examples of the present application (see pages 17-18). These data are shown in the following table:

Sensory Criteria	Comparative Example	Example of the invention
Foam volume	6.2	8.3
Size of bubbles	5.3	5.3
Density of foam	5.9	7.1
Rinsing	9.1	9.1

7. The example of the invention, i.e., containing a cationic polymer devoid of saccharide groups, yielded better foam volume and better foam density relative to the Comparative Example, containing no cationic polymer.

8. In the data submitted in this application on April 25, 2002, a comparison between two formulations which differed by the use of particular cationic polymers, i.e., one

containing saccharide groups (polyquaternium 10) and one which is devoid of saccharide groups (polyquaternium 7). The two compositions were evaluated and clearly demonstrated that a composition containing a cationic polymer devoid of saccharide groups yielded a composition which was more viscous and exhibited better rinsing relative to the composition formulated with a cationic polymer containing saccharide groups.

9. The data presented here coupled with those submitted in this application April 25, 2002; clearly demonstrate the importance of the particular cationic polymer used in formulating, in the present application that is a cationic polymer devoid of saccharide groups.

10. Smaller bubble size and higher foam density are desirable physical properties for cleansing compositions because such properties lead to cleansing compositions having more commercially desirable characteristics such as, for example, better staying power and foam consistency. The smaller bubble size and higher foam density provide with the Example of the invention with more commercially desirable characteristics than the comparative composition. This difference in bubble size and foam density was unexpected and surprising, and demonstrates that cleansing compositions containing a cationic polymer devoid of saccharide units with a surfactant component consisting essentially of at least one phosphate surfactant and at least one foaming non-ionic surfactant in an aqueous medium possess unexpectedly beneficial and commercially desirable properties than compositions which do not contain a phosphate surfactant. Lukembach, cited by the Examiner in this application, equates the cationic polymers (regardless of the presence or absence of saccharide groups) as equivalent. In fact, the Examiner in this application has concluded the same thing (see page 3 of the Office Action mailed June 4, 2003. Based on the stated equivalencies of the two types of cationic polymers, I conclude that the data which shows that a cationic polymer devoid of saccharide groups having improved sensory qualities even more surprising and unexpected.



11. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Laurence Schellato - Arnaud
Name


Signature

23 aout 2004
Date